

IMRE PREPELICZAY

IBLA 75-531

Decided September 4, 1975

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM 25019.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

When a person files an offer for a noncompetitive oil and gas lease and when his agent files another offer for the same parcel on behalf of the principal, both offers must be rejected because the principal's improved chance of success made the drawing inherently unfair whether or not there has been any collusion or intent to deceive the Department.

APPEARANCES: Imre Prepeliczay, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Imre Prepeliczay appeals from a decision of the New Mexico State Office, Bureau of Land Management, rejecting his offer, NM 25019, dated February 19, 1975, to lease for oil and gas Parcel No. 603 included in the February 1975 list of lands available for leasing. At the drawing of simultaneously filed offers held on March 12, 1975, the subject card was the first card selected for Parcel No. 603.

Subsequently, the State Office discovered another drawing entry card for the same parcel signed by the appellant. Both cards were disqualified and rejected pursuant to 43 CFR 3112.5-2 which provides as follows:

When any person, association, corporation, or other entity or business enterprise files an offer to lease

for inclusion in a drawing, and an offer (or offers) to lease is filed for the same lands in the same drawing by any person or party acting for, on behalf of, or in collusion with the other person, association, corporation, entity or business enterprise, under any agreement, scheme, or plan which would give either, or both, a greater probability of successfully obtaining a lease, or interest therein, in any public drawing, held pursuant to § 3110.1-6(b), all offers filed by either party will be rejected. \* \* \*

Appellant contends that this regulation does not apply because his agent was not authorized to send an offer for Parcel No. 603 on the appellant's behalf, so there was no "collusion \* \* \* agreement, scheme, or plan" to increase the appellant's chance of success. This argument is without merit.

The record makes clear that the appellant personally filed one card and his agent another one on his behalf. Despite the assertion that the agent was not authorized to file a card for the appellant for the subject tract, inclusion of both cards in the drawing unquestionably gave the appellant "a greater probability of successfully obtaining a lease." This is precisely the result that the regulation prohibits.

[1] When a person files an offer for a noncompetitive oil and gas lease and when his agent files another offer for the same parcel on behalf of the principal, both offers must be rejected because the principal's improved chance of success made the drawing inherently unfair whether or not there has been any collusion or intent to deceive the Department. See Richard Donnelly, 11 IBLA 170 (1973).

Appellant mentions that he has sold the "lease" to a third party. No lease has been issued that the appellant could sell. His purported sale created no interest against the United States that we may recognize.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques  
Administrative Judge

We concur:

Frederick Fishman  
Administrative Judge

Anne Poindexter Lewis  
Administrative Judge

